

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 CIAE-00 COME-00 DODE-00
DOTE-00 EB-08 FMC-01 INR-07 NSAE-00 CG-00 DLOS-09
OES-07 IO-13 OIC-02 EPA-01 CEQ-01 /065 W
-----128309 311302Z /45
P 311134Z AUG 77
FM AMEMBASSY LONDON
TO SECSTATE WASHDC PRIORITY 7807
INFO AMEMBASSY STOCKHOLM PRIORITY

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FOR JOHN CROOK, L/EB; DEPT. PASS COAST GUARD FOR G-L,
G-M AND G-W; STOCKHOLM FOR USDEL WALLACE

E.O. 11652: N/A
TAGS: PORG, EWWT, IMCO
SUBJECT: PREPARATION FOR IMCO JOINT SESSION MSC/MEPC;
PROTOCOLS

1. ON AUGUST 30 REAR ADMIRAL WALLACE, USCG, MET WITH SASAMURA, DIRECTOR, MARINE ENVIRONMENT DIVISION, IMCO SECRETARIAT. AMONG OTHER MATTERS, WALLACE AND SASAMURA DISCUSSED SECRETARIAT NOTE ON PROTOCOLS TO 1974 SOLAS CONVENTION AND 1973 MARINE POLLUTION CONVENTION. PERTINENT INFO FOLLOWS.
2. DRAFT SECRETARIAT NOTE PREVIOUSLY CONVEYED INFORMALLY HAS BEEN ISSUED AS DOCUMENT MSC/MEPC/3 DTD 5 AUGUST. EXCEPT FOR EDITORIAL CHANGES, DOCUMENT IDENTICAL TO DRAFT NOTE.
3. PARA 7 OF NOTE NOW READS QUOTE SINCE THE PROTOCOL CONSTITUTES IN SUBSTANCE AMENDMENTS TO THE PARENT CONVENTION, THE PROCEDURES FOR AMENDING PARTICULAR PROVISIONS

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OF THE PROTOCOL SHOULD BE THE SAME AS FOR AMENDING THE ORIGINAL PROVISIONS OF THE PARENT CONVENTION UNQUOTE. SASAMURA, AGREEING THAT PARAGRAPH IS INARTFULLY WORDED, SAID THAT IT IS INTENDED TO MEAN THAT CONVENTION AMENDMENT PROCEDURES WHICH APPLY TO CONVENTION ARTICLES SHALL APPLY TO PROTOCOL ARTICLES AND PROCEDURES WHICH APPLY TO CONVENTION ANNEXES SHALL APPLY TO PROTOCOL ANNEXES. TO

AVOID AMBIGUITIES AND DRAFTING PROBLEMS, AMENDMENT
PROCEDURES ARE INCLUDED IN DRAFT PROTOCOLS IN TOTO
RATHER THAN INCORPORATING CONVENTION PROCEDURES BY
REFERENCE.

4. PARA 10 OF NOTE OMITTED MENTION OF RECOURSE TO
EXPLICIT ACCEPTANCE PROCEDURES FOR ANNEX. HOWEVER, SUCH
RECOURSE IMPLIED FOR MARPOL PROTOCOL PER SUBPARAS
8(B)(II) AND 9(B)(II) OF NOTE.

5. PARA 14 STATES THAT PROVISION SIMILAR TO ARTICLE
5(4) OF MARPOL NOT INCLUDED IN SOLAS PROTOCOL BECAUSE
SOLAS 74 DOES NOT CONTAIN CORRESPONDING PROVISION.
MATTER IS HIGHLIGHTED FOR JOINT SESSION ATTENTION IN
PARA 15. WHEN WALLACE PROTESTED OMISSION AS NOT CONFORM-
ING TO INSTRUCTIONS TO SECRETARIAT BY TSPP III, SASAMURA
EXPLAINED THAT MARINE SAFETY DIVISION HAD FELT STRONGLY
THAT SUCH A PROVISION SHOULD NOT BE INCLUDED IN DRAFT
PROTOCOL BECAUSE OF PREVIOUS DECISIONS ON SAME ISSUE (AT
CONFERENCES ELABORATING OTHER SAFETY CONVENTIONS) NOT TO
INCLUDE SUCH A PROVISION. PARA 15 WAS QUOTE COMPROMISE
UNQUOTE WITHIN IMCO SECRETARIAT WHICH SETS OUT US PROPOSA
AS ISSUE TO BE DECIDED WHILE NOT INCLUDING US PROPOSED
PROVISION IN SOLAS DRAFT PROTOCOL. WHEN ASKED IF ANY
OTHER US PROPOSED PROVISIONS HAD BEEN OMITTED, SASAMURA

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GAVE ASSURANCES THAT NO PROVISIONS OF US PROPOSAL HAD BEEN OMITTED EXCEPT AS DESCRIBED IN PARA 14 OR AS AGREED BY USDEL AT TSPP III.

6. WHEN QUERIED ABOUT APPARENT LOOSENESS OF ARTICLE IV, DRAFT PROTOCOL TO MARPOL, SASAMURA AGREED THAT OTHER WORDING MIGHT WELL BE CONSIDERED AND SUGGESTED SOLAS AMENDMENT PROCEDURE MIGHT SERVE AS PATTERN. HE SAID THAT QUOTE SHALL NOT BE BOUND UNQUOTE LANGUAGE RELATES TO LANGUAGE OF ARTICLE 14(1) OF MARPOL AND THAT SIMILAR USAGE CAN BE FOUND IN ARTICLE 1(1). HE STRESSED, HOWEVER, THAT OTHER FORMULATIONS MIGHT WELL BE DEVELOPED WHICH WOULD AVOID DIFFICULTIES RAISED BY QUOTE SHALL NOT BE BOUND UNQUOTE APPROACH.

7. COMMENT: SECRETARIAT NOTE WAS OBVIOUSLY PRODUCT OF MUCH DISCUSSION AMONG MARINE ENVIRONMENT DIVISION, MARINE SAFETY DIVISION, AND LEGAL ADVISOR. MARINE SAFETY DIVISION AND LEGAL ADVISOR DREW ON PRECEDENTS WELL REMOVED FROM TSPP DISCUSSIONS IN ARGUING FOR FORMULATION WHICH APPEAR IN NOTE. USDEL RECOMMENDS NOTE BE ANALYZED LIMITED OFFICIAL USE

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WITH THIS IN VIEW. ARGUMENTS TO SUPPORT US PROPOSALS SHOULD BE DEVELOPED WHICH WILL COUNTER SECRETARIAT ARGUMENTS ON PRECEDENTIAL GROUNDS WHERE POSSIBLE. END COMMENT.

8. USDEL SENDS.

STREATOR

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